

CHILD AND FAMILY SERVICES AGENCY**NOTICE OF EMERGENCY AND PROPOSED RULEMAKING**

The Director of the Child and Family Services Agency, acting pursuant to section 106 of the Grandparent Caregivers Pilot Program Establishment Act of 2005, effective March 8, 2006 (D.C. Law 16-69; D.C. Official Code § 4-251.06) (2008 Repl.) (“Act”); and Mayor’s Order 2006-38, dated March 20, 2006, hereby gives notice of the adoption on an emergency basis of an amendment to Section 6808.4 of Chapter 68 (Grandparent Caregivers Pilot Program Subsidies) of Title 29 (Public Welfare) of the District of Columbia Municipal Regulations (DCMR).

The emergency action is based upon an immediate need to assess the wellbeing and welfare of children whose caregivers receive subsidies under the Grandparent Caregivers Pilot Program. The emergency rules were adopted and became effective on May 18, 2010. The emergency rules will remain in effect for one hundred twenty (120) after the date of adoption, unless earlier rescinded or superseded by a Notice of Final Rulemaking.

The Director also gives notice of his intent to take final rulemaking action to adopt these rules in not less than thirty (30) days after the date of publication of this notice in the *D.C. Register*, and following the review by the Council of the District of Columbia (Council) required by section 106 of the Act. Pursuant to that section, the proposed rules will be transmitted to the Council and will be deemed approved upon the Council's approval of the rules by resolution or the expiration of the Council’s thirty (30) day review period, whichever occurs first.

Section 6808.4 of Chapter 68 of Title 29 DCMR is amended as follows:

- A. Paragraph (c) is amended by striking the word “and”.
- B. A new paragraph (d) is added to read as follows:
 - (d) Current school attendance records for all school age children receiving the subsidy.

All persons desiring to comment on the subject matter of this proposed rulemaking should file comments in writing within thirty (30) days after the date of publication of this notice in the *D.C. Register*. Comments should be filed with Lindsay Hoffman, Program Manager, Child and Family Services Agency, 400 6th Street, S.W., Washington, D.C. 20024. Copies of these proposed rules may be obtained without charge at this address.

DISTRICT DEPARTMENT OF THE ENVIRONMENT**NOTICE OF EMERGENCY RULEMAKING****Action to Amend the Ban on Swimming in the Potomac River**

The Acting Director of the District Department of the Environment, in accordance with the authority set forth in the District Department of the Environment Establishment Act of 2005, effective February 15, 2006 (D.C. Law 16-51; D.C. Official Code § 8-151.01 *et seq.*), sections 5 and 21 of the Water Pollution Control Act of 1984, effective March 16, 1985 (D.C. Law 5-188; D.C. Official Code §§ 8-103.04 and 8-103.20), and Mayor's Order 2006-61, dated June 14, 2006, hereby gives notice of a rulemaking action to amend the ban on swimming set forth in Chapter 11 (Water Quality Standards) of Title 21 (Water and Sanitation) of the District of Columbia Municipal Regulations (DCMR).

This emergency rulemaking action is necessary to preserve the public safety of persons who will be swimming in the Potomac River during the Washington DC Triathlon, with swim dates on June 19, and June 20, 2010, and the Nation's Triathlon, with swim dates on September 11, and September 12, 2010, to prevent threats to their health, safety and welfare as a result of their being exposed to contaminants or conditions that do not comply with the District's standards and criteria for Class A waters set forth in 21 DCMR § 1104.

This emergency rulemaking was executed by the Acting Director on May 17, 2010, and became effective immediately on that date. The emergency rulemaking will expire 120 days from the date of effectiveness.

Chapter 11 of Title 21, DCMR is amended as follows:**Section 1158.5 is amended to read as follows:**

1158.5 Except as provided in § 1158.6, primary contact recreation shall be prohibited in the Potomac and Anacostia Rivers and Rock Creek until such time as the standards in § 1104.8 for Class A beneficial use are consistently maintained.

New sections 1158.6 to 1158.12 are added to read as follows:

1158.6 The Director may allow two (2) single-day special swimming events, and two (2) single-day event practice days, on June 19, and 20, and September 11, and 12, 2010 in the Potomac River, if a study by the special event organizer of samples collected during a thirty (30) day period prior to each event shows that the numeric criteria for Class A listed in § 1104.8 are being attained. The study shall be conducted as follows:

- (a) At least fourteen (14) business days prior to collecting samples, the special event organizer shall submit to the Department for review and approval a

quality assurance project plan (QAPP) that meets the requirements of 21 DCMR §§ 1901 and 1902. All samples shall be collected as required in the approved QAPP.

- (b) Samples for *Escherichia coli* (*E. coli*), pH, and turbidity shall be collected and analyzed according to 40 CFR Part 136. Samples shall be collected by a contractor or contract laboratory with at least two (2) years of experience in the proper collection, handling, and storage of the samples.
- (c) The laboratory conducting the sample analysis shall be capable of providing complete environmental analytical services, consistent with EPA protocols according to a Laboratory Quality Management Plan. Contractors or contract laboratory used must be accredited or certified. A current certificate of accreditation by a state or the EPA must be submitted along with documentation that the specific methods identified in the QAPP are covered by the certification. The laboratory quality management plan shall be submitted as part of the QAPP.
- (d) The study and report of the sample analysis shall be submitted to the Department at least forty-eight (48) hours before the event. The study shall include:
 - (1) An assessment of whether the water quality criteria for Class A in 21 DCMR § 1104 has been attained; and
 - (2) An evaluation of any relevant factors, including prior rainfall and other environmental conditions, that may affect the water quality.

1158.7 The Director shall deny permission to swim in the Potomac River if the results of the study indicate:

- (a) The water quality standards are not being attained;
- (b) An emergency health hazard caused by any dangerous contaminant or condition has occurred; or
- (c) There may be health risks from a known pollution source, such as combined sewer overflow, failing sewer infrastructure, wastewater treatment discharge, or other source.

1158.8 At least fourteen (14) business days before the respective event practice day, the special event organizer shall submit to the Director a Certificate of Insurance, or other proof of coverage, signed by an authorized representative of the insurer, as well as any other document the Director shall require, to evidence insurance coverage for the event. The Director, in his sole discretion, shall determine whether the insurance coverage provided by the special event organizer is

satisfactory. The event shall not be authorized unless the Certificate of Insurance or other proof of coverage is submitted to the Director in the time required by this subsection.

- 1158.9 The Director shall be given notice in the event the insurance coverage required by § 1158.8 is substantially changed, canceled, or not renewed prior to the respective event practice day. The special event organizer shall use all reasonable efforts to notify the Director as soon as possible after the coverage change, cancellation, or non-renewal, but in no event later than two (2) days before the practice day. Upon receiving notice of a coverage change, cancellation, or non-renewal, the Director may rescind authorization for the event.
- 1158.10 As a condition of event authorization, the event organizer shall secure from each participant a signed Department-approved form that expressly assumes the risk of event participation and waives liability of the District of Columbia government, its officers, employees, and agents, for any damages or injuries arising out of participation in the event.
- 1158.11 The event organizer shall take whatever steps as may be deemed necessary by the Director to ensure that the requirements of § 1158.10 are satisfied. Such steps shall include, but not be limited to, presenting the signed forms to the Director within thirty (30) days following the event.
- 1158.12 The special event organizer shall pay a fee of five hundred dollars \$500 per event for the costs the Department incurs in determining whether it will allow swimming in accordance with §§ 1158.6 to 1158.9.

Section 1199.1 is amended as follows:

The following definitions are amended to read as follows:

Department – the District Department of the Environment.

Director – the Director of the District Department of the Environment.

The following definitions are added:

Event organization – The Washington DC Triathlon, with swim dates on June 19, and June 20, 2010, and the Nation's Triathlon, with swim dates on September 11, and September 12, 2010.

Special event organizer – the principal organizer for an event organization.